

SENATE BILL No. 290

DIGEST OF INTRODUCED BILL

Citations Affected: IC 24-4.6-1-103; IC 33-28-3; IC 33-29-2; IC 33-34-3; IC 34-6-2-79.5; IC 34-11-2; IC 34-28.

Synopsis: Medical debt collection procedures. Defines "medical collection case" and prohibits the collection of prejudgment interest in a medical collection case. Permits the defendant in a medical collection case filed in small claims court to remove the case to a circuit or superior court. Makes the statute of limitations in a medical collection case two years. (Under current law, the statute of limitations is six years.) Permits a person named as a defendant in multiple medical collection cases in the same county to consolidate them into one case. Provides that separate medical collection cases may be consolidated in a small claims court if each separate case is under the jurisdictional amount for the small claims court, even if the aggregate amount in controversy in the consolidated case exceeds the jurisdictional amount. Specifies that venue in a small claims court is in the defendant's county of residence.

Effective: July 1, 2014.

Tallian, Steele

January 13, 2014, read first time and referred to Committee on Judiciary.



Second Regular Session 118th General Assembly (2014)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2013 Regular Session and 2013 First Regular Technical Session of the General Assembly.

SENATE BILL No. 290

A BILL FOR AN ACT to amend the Indiana Code concerning civil procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 24-4.6-1-103 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 103. Interest at the rate
3 of eight percent (8%) per annum shall be allowed:
4 (a) From the date of settlement on money due on any instrument in
5 writing which does not specify a rate of interest and which is not
6 covered by IC ~~1971~~, 24-4.5 or this article;
7 (b) And from the date an itemized bill shall have been rendered and
8 payment demanded on an account stated, account closed or for money
9 had and received for the use of another and retained without ~~his~~
10 consent.
11 **However, prejudgment interest is not allowed in a medical**
12 **collection case (as defined in IC 34-6-2-79.5).**
13 SECTION 2. IC 33-28-3-4 IS AMENDED TO READ AS
14 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) This section
15 applies after June 30, 2005.
16 (b) The small claims docket has jurisdiction over the following:



(1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than six thousand dollars (\$6,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds six thousand dollars (\$6,000) in order to bring it within the jurisdiction of the small claims docket.

(2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed six thousand dollars (\$6,000).

(3) Emergency possessory actions between a landlord and tenant under IC 32-31-6.

(4) Medical collection cases consolidated under IC 34-28-9, if the amount sought in each separate case, before the cases were consolidated, was not more than six thousand dollars (\$6,000) per case. The aggregate amount sought in the consolidated case may exceed six thousand dollars (\$6,000).

SECTION 3. IC 33-28-3-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: **Sec. 7.5. (a) This section applies only to a medical collection case (as defined in IC 34-6-2-79.5).**

(b) The defendant may, at any time before trial, request that a medical collection case be removed to the circuit court.

(c) Notice of the defendant's right to:

(1) remove a medical collection case must be clearly stated on the complaint or on an additional sheet to be served with the notice of claim on the defendant; and

(2) consolidate medical collection cases must be clearly stated on an additional sheet to be served with the notice of claim on the defendant.

Notice of the right to consolidate medical collection cases must substantially comply with the form described in IC 34-28-9-7. Notice of the right to remove a case to the circuit court must be in substantially the following form:

"Notice to the Defendant

You are being sued to collect fees for medical services or equipment.

If you do not wish for your case to be tried in Small Claims Court, you have the right to have your medical collection case removed to the Circuit Court.

In order to do this, you must make a request to the court before trial.

I, _____, REQUEST THAT ALL MY



**MEDICAL COLLECTION CASES LISTED BELOW BE
REMOVED TO THE CIRCUIT COURT.**

Signature: _____

Date: _____

Return this notice to the court, listing all case numbers below:".

(d) Upon receipt of the defendant's request, the court shall transfer the claim to the plenary docket. The defendant is not required to pay a fee to remove a case to the circuit court. Upon transfer, the claim then loses its status as a small claim.

SECTION 4. IC 33-29-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4. (a) This section applies after June 30, 2005.

(b) The small claims docket has jurisdiction over the following:

(1) Civil actions in which the amount sought or value of the property sought to be recovered is not more than six thousand dollars (\$6,000). The plaintiff in a statement of claim or the defendant in a counterclaim may waive the excess of any claim that exceeds six thousand dollars (\$6,000) in order to bring it within the jurisdiction of the small claims docket.

(2) Possessory actions between landlord and tenant in which the rent due at the time the action is filed does not exceed six thousand dollars (\$6,000).

(3) Emergency possessory actions between a landlord and tenant under IC 32-31-6.

(4) Medical collection cases consolidated under IC 34-28-9, if the amount sought in each separate case, before the cases were consolidated, was not more than six thousand dollars (\$6,000) per case. The aggregate amount sought in the consolidated case may exceed six thousand dollars (\$6,000).

SECTION 5. IC 33-29-2-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 4.5. (a) This section applies only to a medical collection case (as defined in IC 34-6-2-79.5) on the small claims docket.

(b) The defendant may, at any time before trial, request that the medical collection case be removed to the superior court.

(c) Notice of the defendant's right to:

(1) remove a medical collection case must be clearly stated on the complaint or on an additional sheet to be served with the notice of claim on the defendant; and

(2) consolidate medical collection cases must be clearly stated on an additional sheet to be served with the notice of claim on



the defendant.

Notice of the right to consolidate medical collection cases must substantially comply with the form described in IC 34-28-9-7. Notice of the right to remove a case to the superior court must be in substantially the following form:

"Notice to the Defendant

You are being sued to collect fees for medical services or equipment.

If you do not wish for your case to be tried in Small Claims Court, you have the right to have your medical collection case removed to the Superior Court.

In order to do this, you must make a request to the court before trial.

I, _____, REQUEST THAT ALL MY MEDICAL COLLECTION CASES LISTED BELOW BE REMOVED TO THE SUPERIOR COURT.

Signature: _____

Date: _____

Return this notice to the court, listing all case numbers below:".

(d) Upon receipt of the defendant's request, the court shall transfer the claim to the plenary docket. The defendant is not required to pay a fee to remove a case to the superior court. Upon transfer, the claim then loses its status as a small claim.

SECTION 6. IC 33-34-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 2. **(a) Except as provided in subsection (b), the court has original and concurrent jurisdiction with the circuit and superior courts in all civil cases founded on contract or tort in which the debt or damage claimed does not exceed six thousand dollars (\$6,000), not including interest or attorney's fees.**

(b) The court has original and concurrent jurisdiction in all medical collection cases consolidated under IC 34-28-9 if the amount sought in each separate case, before the cases were consolidated, was not more than six thousand dollars (\$6,000) per case. The court has jurisdiction in a consolidated medical collection case even if the aggregate amount sought in the consolidated case exceeds six thousand dollars (\$6,000).

SECTION 7. IC 33-34-3-11.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 11.5. **(a) This section applies only to a medical collection case (as defined in IC 34-6-2-79.5).**

(b) The defendant may, at any time before trial, request that the



1 medical collection case be removed to the superior court.

2 (c) Notice of the defendant's right to:

3 (1) remove a medical collection case must be clearly stated on
4 the complaint or on an additional sheet to be served with the
5 notice of claim on the defendant; and

6 (2) consolidate medical collection cases must be clearly stated
7 on an additional sheet to be served with the notice of claim on
8 the defendant.

9 Notice of the right to consolidate medical collection cases must
10 substantially comply with the form described in IC 34-28-9-7.

11 Notice of the right to remove a case to the superior court must be
12 in substantially the following form:

13 "Notice to the Defendant

14 You are being sued to collect fees for medical services or
15 equipment.

16 If you do not wish for your case to be tried in Small Claims Court,
17 you have the right to have your medical collection case removed to
18 the Superior Court.

19 In order to do this, you must make a request to the court before
20 trial.

21 I, _____, REQUEST THAT ALL MY
22 MEDICAL COLLECTION CASES LISTED BELOW BE
23 REMOVED TO THE SUPERIOR COURT.

24 Signature: _____

25 Date: _____

26 Return this notice to the court, listing all case numbers below:".

27 (d) Upon receipt of the defendant's request, the court shall
28 transfer the claim to the superior court. The defendant is not
29 required to pay a fee to remove a case to the superior court. Upon
30 transfer, the claim then loses its status as a small claim.

31 SECTION 8. IC 34-6-2-79.5 IS ADDED TO THE INDIANA CODE
32 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
33 1, 2014]: Sec. 79.5. "Medical collection case" means an action to
34 collect a debt based on the provision of medical care, durable
35 medical equipment, or a prescription.

36 SECTION 9. IC 34-11-2-7 IS AMENDED TO READ AS
37 FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 7. (a) The following
38 actions must be commenced ~~within~~ not later than six (6) years after
39 the cause of action accrues:

40 (1) Except as provided in subsection (b), actions on accounts
41 and contracts not in writing.

42 (2) Actions for use, rents, and profits of real property.



(3) Actions for injuries to property other than personal property, damages for detention of personal property and for recovering possession of personal property.

(4) Actions for relief against frauds.

(b) An action on:

(1) an account not in writing; or

(2) a contract not in writing;

for the provision of medical care, durable medical equipment, or a prescription must be commenced not later than two (2) years after the cause of action accrues.

SECTION 10. IC 34-11-2-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]: Sec. 9. **(a) Except as provided in subsection (b),** an action upon promissory notes, bills of exchange, or other written contracts for the payment of money executed after August 31, 1982, must be commenced ~~within~~ **not later than** six (6) years after the cause of action accrues. An action upon promissory notes, bills of exchange, and other written contracts for the payment of money executed on or after September 19, 1881, and before September 1, 1982, must be commenced ~~within~~ **not later than** ten (10) years after the cause of action accrues. However, all contracts described in this section that have been executed before September 19, 1881, may be enforced within the time only as they have to run, before being barred under the law in effect at the time of their executions limiting the commencement of actions, and not afterward.

(b) An action upon a:

(1) promissory note;

(2) bill of exchange; or

(3) other written contract for the payment of money;

for the provision of medical care, durable medical equipment, or a prescription must be commenced not later than two (2) years after the cause of action accrues.

(c) Subsection (b) applies only to a:

(1) promissory note;

(2) bill of exchange; or

(3) other written contract for the payment of money;

executed after June 30, 2014.

SECTION 11. IC 34-28-9 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2014]:

Chapter 9. Consolidation of Medical Collection Cases

Sec. 1. This chapter applies only to a medical collection case.

Sec. 2. (a) If more than one (1) medical collection case is pending



1 in one (1) or more courts in a county, the defendant may request
 2 consolidation of these cases for purposes of discovery, pretrial
 3 proceedings, and trial.

4 (b) If each medical collection case in a county is below the small
 5 claims court jurisdictional amount, the defendant may consolidate
 6 all medical collection cases below the jurisdictional amount into
 7 one (1) case, even if this causes the amount in controversy to exceed
 8 the jurisdictional amount.

9 Sec. 3. (a) The request described in section 2 of this chapter shall
 10 be filed in a court where the medical collection case is pending. A
 11 defendant may request consolidation by filing the form described
 12 in section 7 of this chapter.

13 (b) If the defendant consolidates the medical collection cases in
 14 a small claims court, the defendant shall file the request in the
 15 small claims court in which the first medical collection case was
 16 filed, as determined by the filing date of the action.

17 (c) If the medical collection case is pending in more than one (1)
 18 circuit or superior court, and the defendant intends to consolidate
 19 the cases in a circuit or superior court, the defendant shall file the
 20 request in the circuit or superior court in which the first medical
 21 collection case was filed, as determined by the filing date of the
 22 action.

23 (d) If more than one (1) medical collection case was filed on the
 24 same date, the court having the lowest court identifier number
 25 under Indiana court administrative rule 8(B)(1) is considered to
 26 have the medical collection case with the earliest filing date.

27 Sec. 4. If none of the medical collection cases is pending in a
 28 circuit or superior court, the defendant must remove at least one
 29 (1) medical collection case to a circuit or superior court and file a
 30 request for consolidation in that court, in accordance with section
 31 3 of this chapter.

32 Sec. 5. (a) Upon receipt of a request to consolidate medical
 33 collection cases, the court shall, after conducting a hearing, order
 34 all medical collection cases consolidated, unless the court finds by
 35 clear and convincing evidence that consolidation would prejudice
 36 the substantial rights of the plaintiff.

37 (b) If only some claims in an action are claims to collect a debt
 38 based on the provision of medical care, durable medical
 39 equipment, or a prescription, the court may order consolidation of
 40 only these medical collection claims.

41 Sec. 6. (a) If a circuit or superior court orders a medical
 42 collection case pending in a small claims court consolidated in a



1 circuit or superior court, the defendant is not required to pay a fee
 2 for removal of a case from a small claims court to a circuit or
 3 superior court for the cases ordered consolidated by the circuit or
 4 superior court.

5 (b) If a court orders the consolidation of one (1) or more
 6 medical collection cases, a defendant is not required to pay a fee
 7 for consolidation.

8 Sec. 7. A notice of a defendant's right to consolidate medical
 9 collection cases must be in substantially the following form.

10 "Notice to the Defendant

11 You are being sued to collect fees for medical services or
 12 equipment.

13 If you have more than one medical collection case, you are entitled
 14 to have all medical collection cases combined into ONE SINGLE
 15 CASE.

16 In order to do this, you must make a request to the court before
 17 trial.

18 I, _____, REQUEST THAT ALL MY
 19 MEDICAL COLLECTION CASES LISTED BELOW BE
 20 COMBINED.

21 Signature: _____

22 Date: _____

23 Return this notice to the court, listing all case numbers below:".

24 Sec. 8. The court having jurisdiction over a consolidated case
 25 may order the parties to submit to alternative dispute resolution.

26 Sec. 9. The court having jurisdiction over a consolidated case
 27 may:

28 (1) order a consolidated payment plan; or

29 (2) issue a garnishment order and require the proceeds to be
 30 divided among the plaintiffs on a pro rata basis.

31 SECTION 12. IC 34-28-10 IS ADDED TO THE INDIANA CODE
 32 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 33 JULY 1, 2014]:

34 Chapter 10. Venue in Medical Collection Cases

35 Sec. 1. Venue in a medical collection case is in the defendant's
 36 county of residence.

